

Mathew K. Higbee, Esq.
 California Bar No. 241380
HIGBEE & ASSOCIATES
 1504 Brookhollow Dr., Ste 112
 Santa Ana, CA 92705-5418
 (714) 617-8350
 (714) 597-6559 facsimile
 Email: mhigbee@higbee.law

Attorney for Plaintiff,
 GREAT BOWERY INC. d/b/a TRUNK ARCHIVE

**IN THE UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

GREAT BOWERY INC. d/b/a TRUNK
 ARCHIVE,

Plaintiff,

v.

DELUXE BEAUTE BEVERLY MEDICAL
 SPA, A PROFESSIONAL CORPORATION
 d/b/a DELUXE COSMETIC CENTER;
 CHERYL CHEN, individually; KEVIN DO,
 individually; TIFFANY HO, individually;
 and DOES 1 through 10 inclusive,

Defendants.

Case No. 2:24-cv-1334-CBM-SK

**MOTION TO WITHDRAW
 REQUEST FOR CLERK’S
 ENTRY OF DEFAULT AS TO
 DEFENDANTS DELUXE
 BEAUTE BEVERLY MEDICAL
 SPA, A PROFESSIONAL
 CORPORATION d/b/a DELUXE
 COSMETIC CENTER; CHERYL
 CHEN; and KEVIN DO AND TO
 EXTEND THE TIME FOR
 RESPONSE TO COMPLAINT**

Filed and Served Concurrently:

1. Declaration of Jayma C. Leath

Plaintiff GREAT BOWERY INC. d/b/a TRUNK ARCHIVE, by and through
 its undersigned counsel, hereby requests that the Court withdraw Plaintiff’s request
 for the Clerk to enter default in this action against Defendants Deluxe Beaute Beverly
 Medical Spa, A Professional Corporation d/b/a Deluxe Cosmetic Center (“Deluxe”);
 Cheryl Chen (“Chen”); and Kevin Do (“Do”) [Doc. No. 18].

Plaintiff also requests that the Court grant an extension to Defendants Deluxe,
 Chen, and Do to answer or otherwise respond to the Complaint.

1 In support of thereof, Plaintiff shows the following.

- 2 1. This action was commenced on February 19, 2024. [See Doc. No. 1.]
- 3 2. Defendants Deluxe, Chen, and Do were served with the Summons and
- 4 Complaint on April 8, 2024. [See Docs. 12-14].
- 5 3. Defendants' response was due by May 10, 2024.
- 6 4. Defendants' attorney attempted to reach out to Plaintiff's attorney by email on
- 7 April 23 to set up a time to discuss resolution of this matter and to also request
- 8 a 30-day extension of time for Defendants to respond to the Complaint and
- 9 followed up with Plaintiff's attorney by email on April 25, 2024. Declaration
- 10 of Jayma C. Leath ("Leath Decl.") ¶ 4.
- 11 5. Neither email reached Plaintiff's attorney because Defendants' attorney did not
- 12 have the correct email address. Leath Decl. ¶ 5.
- 13 6. On May 13, 2024, Plaintiff began the default process and filed a Request for
- 14 Clerk's Entry of Default (Doc. No. 18) because Defendants had not responded
- 15 to the Complaint on or by the May 10, 2024 deadline. Leath Decl. ¶ 6.
- 16 7. Defendants' attorney immediately called Plaintiff's attorney and forwarded the
- 17 previously undelivered correspondence to Plaintiff's attorney; stated
- 18 Defendants would like to resolve this matter as soon as possible; and requested
- 19 that the Request for Clerk's Entry of Default (Doc. No. 18) be withdrawn.
- 20 Leath Decl. ¶ 7.
- 21 8. Plaintiff's attorneys have no objection to Defendants' request to withdraw the
- 22 request for entry of default. Leath Decl. ¶ 8.
- 23 9. The time has passed for Defendants' to respond to the Complaint. However,
- 24 Defendants' attorney attempted to contact Plaintiff's attorney to discuss
- 25 settlement of this matter, and Plaintiff's attorney believes Defendants are
- 26 trying to settle this matter in good faith. Leath Decl. ¶ 9.

27
28 WHEREFORE, for good cause shown, Plaintiff respectfully request that
the Court withdraw Plaintiff's Request for Clerk's Entry of Default and also

1 grant Defendants an extension of time until June 10, 2024 to answer or
2 otherwise respond to the Complaint.

3
4 DATED: May 13, 2024

Respectfully submitted,

5 /s/ Mathew K. Higbee

6 Mathew K. Higbee, Esq.

7 Cal. Bar No. 241380

8 **HIGBEE & ASSOCIATES**

9 1504 Brookhollow Dr., Ste 112

10 Santa Ana, CA 92705

11 (714) 617-8350

12 (714) 597-6729 facsimile

13 mhigbee@higbee.law

14 *Counsel for Plaintiff*

CERTIFICATE OF SERVICE

This is to certify that on this day, the 13th of May, 2024, I electronically filed the within and foregoing:

- **Motion To Withdraw Request For Clerk's Entry of Default As To Defendants Deluxe Beaute Beverly Medical Spa, A Professional Corporation d/b/a Deluxe Cosmetic Center; Cheryl Chen; And Kevin Do And To Extend The Time For Response To Complaint;** and
- **Declaration Of Jayma C. Leath In Support Of Motion To Withdraw Request For Clerk's Entry of Default As To Defendants Deluxe Beaute Beverly Medical Spa, A Professional Corporation d/b/a Deluxe Cosmetic Center; Cheryl Chen; And Kevin Do And To Extend The Time For Response To Complaint**

and have served all parties who have appeared in this case by using the CM/ECF system, which will automatically send an email notification of such filing to all attorneys of record listed with the Clerk of Court.

/s/ Mathew K. Higbee

Mathew K. Higbee

Attorney for Plaintiff Great Bowery